

No. 9(1)82-6 Lab./3281.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 of Act No. XIV of 1947, the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Cast E-Cula, Plot No. 108, Sector 6, Faridabad.

**BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD**

**Reference No. 415/1982**

*between*

**SHRI SURESH GHATWAR WORKMAN AND THE MANAGEMENT OF M/S CAST-E-CULA,  
PLOT NO. 108, SECTOR 6, FARIDABAD.**

**AWARD**

The Governor of Haryana referred the following dispute between the workman Suresh Chatwar and the management of M/s Cast-E-Cula Plot No. 108, Sector 6, Faridabad, by order No. ID/FD/143/82/49825, dated 4th November, 1982, to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

- (1) Whether the termination of service of Shri Suresh Ghatwar was justified and in order ?  
If not, to what relief is he entitled ?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the last date of hearing, the representative for the management made a statement that the management would pay a sum of Rs. 1,200 to the workman in full and final settlement of the dispute. The workman endorsed the above statement. The workman received Rs. 1,200 according to the Settlement.

In view of the above, I pass my award that the matter had been mutually settled by the parties and there remained nothing for adjudication.

Dated the 25th March, 1983.

**M. C. BHARDWAJ,**  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endorsement No. 355, dated the 30th March, 1983.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

**M. C. BHARDWAJ,**  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9(1) 82-6Lab/3502.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 of Act No. XIV of 1947, the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Snowtemp Engineering Company, Limited, 14, Mathura Road, Faridabad.

**IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, FARIDABAD.**

**Reference No. 215/1982**

*between*

**SHRI MANGROO PARSHAD, WORKMAN AND THE RESPONDENT MANAGEMENT OF  
M/S SNOWTEMP ENGINEERING COMPANY, LIMITED, 14, MATHURA ROAD,  
FARIDABAD.**

Shri M.K. Bhandari, for the workman.  
Shri S.L. Gupta, for the respondent management.

## AWARD

This reference No. 215 of 1982 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID.FD/114,82/36537, dated 6th August, 1982 under Section 10(i)(c) of the Industrial Disputes Act, 1947, existing between Shri Mangroo Parshad, workman and the respondent management of M/s Snowtemp Engineering Company, Limited, 14 Mathura Road, Faridabad. The term of the reference was :—

Whether the termination of service of Shri Mangroo Prasad was justified and in order? If not, to what relief is he entitled?

Notices were issued to the parties on receiving this reference order. The parties appeared and filed their pleading. The case of the workman according to demand notice is that he was in the service of the respondent from 10th December, 1976 as turner and receiving a salary of Rs. 573.25 per month. On 21st November, 1980 he was suspended without any reason and dismissed on 12th November, 1981 without completing the enquiry. There was general demand pending before the management on 1st October, 1980 due to that demand he was terminated to take the revenge as he was the president of the Union. So he is entitled for his reinstatement, continuity of service and back wages.

The case of the respondent according to written statement is that the workman has not filed any claim statement before this court which is mandatory provision. The claimants was served with four chargesheets containing serious acts of misconduct. The chargesheet were enquired through two domestic enquiry, and he was found guilty of all the charges in the enquiry findings. So he was dismissed. There was no Industrial Disputes pending at the time of dismissal and he was not victimised due to union activities. The first chargesheet dated 21st November, 1981 containing charges of obstructing the movement of vice president and the factory Manager, roaming here and there in the workshop and conducting union activities in the workshop. Hooting and shouting and creating riotous and disorderly behaviour in the factory premises; inciting and instigating other workers for go slow and indiscipline, striking of work and inciting and instigating others for illegal and unjustified strike, disobey the orders of superiors. Holding illegal and unjustified strike, disobey the orders of superiors, holding meeting in the factory premises and raising bad slogans, gheraoing Administrative officer and vice President and threatening the officers of the company. The chargesheet dated 4th December, 1980 containing the charges of 'blemished past record and resorting to go slow of production and instigating workers for go slow of production. The chargesheet dated 20th 1981 containing the charges of brought about a complete stay out strike in the factory and inciting and instigating other workers for illegal and unjustified strike'. The chargesheet dated 19th June, 1981 contained the charge of assaulting co-workers alongwith his associates. The claimant tendered his explanation of all the charges which were found unsatisfactory and ordered for the domestic enquiry. There was one enquiry in respect of the chargesheet dated 21st November, 1980, 4th December, 1980, 20th January, 1981 and second enquiry is related to chargesheet dated 19th June, 1981. The enquiry officer appointed vide management Letter dated 5th February, 1981 and 30th August, 1981. All these letters were received by the claimant well in time. Both the enquiries were conducted on the principle of natural justice. The Enquiry officer found the claimant guilty of all the charges. After considering the enquiry reports and the chargesheet the workman was dismissed.

On the pleadings of the parties, following issues were framed :—

1. Whether the domestic enquiry conducted by the respondent management was proper, and fair? If so, to what affect?

2. Whether the termination of service of the workman is proper, justified and in order? If not, to what relief is he entitled?

It was ordered that Issue No. 1 be treated as preliminary issue and my findings on the issues is as under:—

Issue No. 1:—

The representative of the respondent argued on this issue that as stated by Shri R.S. Chohan, Personal Officer as MW--1 the workman was given chargesheets Ex. M--1 to M--3 which he replied *vide* Ex. M--4 to M--6. After receiving the reply of the chargesheet the enquiry officer was appointed *vide* Ex. M--7. The respondent received one letter from the workman which is Ex. M--8 which was replied *vide* Ex. M--9. Another chargesheet Ex. M--10 and Ex. M--11 is the reply of the workman in respect of the chargesheet. The enquiry officer was appointed *vide* Ex. M--12 Ex. M--13 a letter received from the workman which was replied by the workman *vide* Ex. M--14. The respondent received another letter of the workman Ex. M--15 which was replied *vide* Ex. M--16. Ex. M--17 to M--19 are the letters related to the enquiry. The letter Ex. M--20 was issued from the director after going through the findings of the enquiry, and Ex. M--21 is the letter issued to the workman after dismissal of the workman. *vide* Ex. M--22 the workman demanded the Hindi translation of dismissal

letter which was given vide Ex. M-23. The UPC is Ex. M-14 in respect of delivery of Ex. M-23. Ex. M-25 to M-31 are the seven letters related to the enquiry and Ex. M-32 to M-60 relates to the previous record of the workman. Ex. M-61 is the copy of the Standing order of the company. He further argued that the enquiry officer Shri S.I. Gupta has also come to depose as MW-2 in the court who has proved the whole enquiry which was conducted before him who has stated that Ex. M-62 are the proceeding of the enquiry and Ex. M-63 is the findings of the enquiry. The workman came present in the enquiry and signed the proceedings which is Ex. M-64. But he refused to sign on all pages of the proceedings. The workman was given the copies of the proceedings of that day which received. He boycotted the enquiry proceedings after refusing to sign the proceedings. The claimant very well knows the facts of the case as shown in the chargesheet. In the chargesheet dated 19-6-81 Ex. M-10 it was clear that this workman along with other associates Shri Jai Parkash, Vidhya Parkash, Nafis Ahmed and Mohd Abid assaulted Shri Madan Sajjan Singh, Ram Singh and Ujain Singh near the factory when they were going home after close of their duty hours. They received grievous injuries by them. Shri Sujjan Singh's only eye was knocked out by the chargesheeted workman. On 17-2-1981 this workman inflicted serious injuries to other workman S/Shri Ajmal Hussain and Lakman while they were returning home after finishing their duties. The chargesheeted workman was a terror to the victims as he worked over time in the factory against the wishes of the chargesheeted workman and not following to the dictation of the chargesheeted worker for slow down of production. He was called in the enquiry, in the sitting held on 10th September, 1981. The intimation of this date was sent to the workman through Ex. M-17. The workman attended the enquiry on 10th September, 1981 and signed the proceedings Ex. M-64 on the same day he gave Ex. M-13 objecting the appointment of enquiry officer being legal advisor and also objected that the date of enquiry was fixed by the respondent and not by the enquiry officer. The enquiry was adjourned for 12th September, 1981 and on that day he replied the objection of the workman vide Ex. M-14. On that date the evidence of the workman was recorded and he cross-examined the witnesses but he refused to sign the proceedings and later on stage walk out from the enquiry. The workman was given opportunity by sending a letter dated 19th September, 1981 vide Ex. M-65 for fixing the date of enquiry for 29th September, 1981. The proceedings of the enquiry were also sent to the workman from 2 to 8 but he did not turn up on the date fixed for enquiry rather sent a letter Ex. M-66 stating therein that the enquiry should be done outside the factory and he will not participate in the enquiry if it is conducted in the company. In these circumstances, the enquiry officer closed the enquiry on 29th September, 1981 and proceed ex parte. The respondent lodged a complaint against the workman in the police. The FIR's letters are Ex. M-25 to M-27. The workman demanded the copies of the complaint through Ex. M-11 which was supplied to him through Ex. M-12. These all shows that the enquiry was fair and proper and against the workman. The representative of the respondent referred Assam Oil Company Vs. Appal Swami 1954 II LLJ Page 331 and Laxmi Devi Suggar Mills, Vs. Ram Sarup 1957 I LLJ Page 17 in which it is held that if a workman does not attend the enquiry inspite of due knowledge of the same, the enquiry officer can proceed with the enquiry without his presence. He further argued that the workman has given verbal statement that he was president of the union but he has not produced any record that he was the office bearer of the union. Even otherwise the office bearer of the union does not carry any licence to commit every all sorts of misconduct in the factory. The workman was given full opportunity in the enquiry as workman has admitted this fact as WW-1 about the chargesheet and the knowledge of the enquiry. He has also admitted in his cross examination that he participated in the enquiry and there were charges against him and that enquiry should be conducted outside the premises of the factory which cannot be allowed to the workman. So he was given full opportunity in the enquiry and there were serious charges against him which were proved by the enquiry officer, after giving full opportunity to the workman. So it was fair and proper enquiry.

The representative of the workman argued on this that as stated by the workman in his statement as WW-1 he joined the service as turner in the year 1975 and was receiving the salary of Rs.650 per month. There was union in factory and he was the president of that union. There was election of the union. The copy of the election Ex. M-1 was sent to the respondent management. Ex. W-2 is a settlement between the workmen and the respondent. There was General Demand notice pending when he was given the chargesheet. He sent the letter Ex. W-5 to W-8 to the respondent and received letter from the respondent Ex. M-9 and M-10. The enquiry officer is the legal representative of the respondent. There were three chargesheets against the workman which were enquired by the enquiry officer. Firstly in which he participated. He demanded some facilities from the enquiry officer which he accepted but facilities were not provided to him. He received a notice for IIInd enquiry and he attended that enquiry. He objected for the late coming of the enquiry officer as he has little time for this purpose. The enquiry officer asked him to sign without reading which he refused and boycotted the enquiry proceedings. He demanded through a letter that the enquiry should be conducted outside the premises of the company. He received the proceedings of the enquiry after 4-5 days through a letter. After these letters he received no reply from the respondent and they dismissed without completing the enquiry, so he was not given proper opportunity in the enquiry and it was one sided enquiry which cannot said to be fair and proper enquiry.

After hearing the arguments of both the parties and going through the file, I fully agree with the arguments put forward by the respondent representative. The workman had the knowledge of the enquiry proceedings and he intentionally boycotted the enquiry without any solid reasons. The enquiry officer sent letter to call the workman to conduct the enquiry proceedings but

inspite of these letters he did not come to participate in the enquiry which is not the fault of the enquiry officer, or the respondents, So the enquiry was fair and proper and issue is decided in favour of the respondent and against the workman.

*Issue No. II :—*

After going through the file and reading the chargesheets against the workman it is clear that after findings of the enquiry officer no management can tolerate such a violent man who has taken only eye of a workman who was a co-workman of the claimant. The allegations against the workman are of very serious and grave nature and after proving these allegations against the workman the respondent has rightly terminated the services of the workman. So the order of dismissal of the workman is proper and justified and the workman is not the entitled for any relief.

This be read in answer to this reference.

HARI SINGH KAUSHIK,

Dated the 7th April, 1983.

Presiding Officer,  
Labour Court, Haryana,  
Faridabad.

Endtt. No. 715, dated the 13th April, 1983

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,

Presiding Officer,  
Labour Court, Haryana,  
Faridabad.

The 13th May, 1983

No. 9(1)-82-6Lab./3692.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s The Bhiwani Central Cooperative Bank Ltd. Bhiwani.

**BEFORE SHRI INDER SINGH DHULL, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK**

**Reference No. 110 of 1981**

*between*

**SHRI GIAN PAL, WORKMAN AND THE MANAGEMENT OF M/S THE BHIWANI CENTRAL COOPERATIVE BANK LTD. BHIWANI**

*Present.—*

Shri S. S. Gupta, for the workman.

Shri Balbir Singh, for the management.

**AWARD**

This reference has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/HSR/68-80/38479, dated 20th August, 1981 under section 10(i) (c) of the I.D. Act, for adjudication of the dispute existing between Shri Gian Pal, workman and the management of M/s The Bhiwani Central Cooperative Bank Ltd., Bhiwani.

The term of the reference was:—

Whether the termination of services of Shri Gian Pal was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The parties appeared, filed their respective pleadings, and the following issues were framed by my learned predecessor on 4th January, 1982 :—

1. Whether this court has no jurisdiction to entertain and decide the present dispute ?
2. As per the term of reference ?

In evidence the management examined Shri Ravi Dutt Gaur and the workman examined himself as his only witness and closed their case. I heard the arguments of the parties and decide the issues as under :—

*Issue No. 1 :—*

No evidence was led by the management on this issue. This is a legal issue. Though the management has taken the plea as in their written statement but failed to give any reason for the same. The plea that the Haryana State Central Cooperative Bank Staff Rule 1975 or section 55 of the Cooperative Societies Act had a bearing on this issue has also little force. Industrial Dispute Act was a Central Act and applied to the Cooperative Sector as well. There was a Centona of Judgment that the Cooperative Banks were covered by the term Industry. This issue is decided against the management.

*Issue No. 2 :—*

The main contention of the management was that the workman was a probationer. In evidence the management examined Shri Ravi Dutt, Junior Accountant who stated that the concerned workman was appointed w. e. f. 22nd June, 1979 on two years probation. He further stated that the workman had accepted the term of appointment. A permanent driver was recommended for light job by the doctor therefore he was posted against the post of peon. In these circumstances the concerned workman became surplus. No notice was given to the workman however he was paid one month notice pay and seven day compensation on termination. In cross-examination he admitted that the concerned workman had completed 261 days attendance at the time of termination of his services. He also admitted that no notice to show that his work was unsatisfactory was given to the workman. He also admitted that no notice about change of service condition of the driver was issued before conversion of the driver into a peon.

The concerned workman stated that he joined service on 3rd July, 1979 and his services were terminated on 6th June, 1980.

The only contention of the management was that the workman was appointed on probation and his service could be terminated as per term of his appointment letter. On the other hand the learned representative of the workman argued that no service condition in violation of section 25J of the I. D. Act could be framed by the management. He further argued that the management did not comply section 25F because the workman had completed one year service as defined in section 25B of the I. D. Act. He cited 1981 I-LLJ 156, 1980 II-LLJ 72, I have gone through the law cited by workman. I find that continuous service was defined in section 25B, it was given that in case during a period of twelve calendar months if a workman had actually worked for 240 days it was deemed to be one year continuous service. The arguments of the learned representative for the management that a probationer was not a workman had no force because there was no such distinction in sections 5 of the case reported in 1980 II-LLJ 1977 Santosh Gupta V/s State Bank of Patiala had a direct bearing in the present case and it was held that the termination of service without complying with section 25F was illegal. In the case in hand no retrenchment compensation as provided in section 25F was paid to the concerned workman. Therefore the termination order was not in order. The workman is entitled to reinstatement with continuity of service and with full back wages. The reference is answered and returned accordingly.

Dated the 7th April, 1983.

INDER SINGH DHULL,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

Endst. No. 849, dated 18th April, 1983.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section-15 of the Industrial Disputes Act, 1947.

INDER SINGH DHULL,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

ASHOK PAHWA,

Commissioner and Secretary to Government, Haryana,  
Labour & Employment Departments.